



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/166164

PRELIMINARY RECITALS

Pursuant to a petition filed May 22, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on June 10, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency erred in its termination of FS for petitioner effective June 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was a FS group of one.
3. The agency received an employer verification form dated 4/29/15 from [REDACTED] [REDACTED]. The employer indicated bi-weekly earned income of "\$648.38 (varied)." Based on

this, the agency budgeted and monthly earned income of \$1,394.02. The agency also budgeted \$642/month unemployment compensation.

4. On May 19, 2015, the agency sent a notice indicating that petitioner was over the income limit for FS.
5. Petitioner appealed.

DISCUSSION

The gross income limit for a household of one is \$1,946 which is 200 percent of the federal poverty level. *See FS Handbook* § 8.1.1. If the gross income goes above this amount the case will close. *See Id.* at § 4.2.1.1.

At hearing, petitioner argued that her income varies greatly from one pay period to the next. At the hearing, petitioner stated that she had a letter with her from her employer which supported her contention that he earned income can vary from as low as \$100 per month to more than \$1,000 per month. This claim, however, is undermined by the state wage record which reflects the wages reported to the state from the employer. The employer claims to have paid petitioner \$3,668 in Q1 of 2015, \$3,474 in Q4 of 2014, and \$5,190 in Q3 of 2014. This averages out to approximately \$1,370 per month.

Petitioner also claimed to have pay stubs detailing her past income. But, none of this information had been provided to the agency. The agency was basing its action on the only information it had available which was the employer verification form dated 4/29/15 which indicated \$1,394 monthly for FS purposes and which was corroborated by the state wage record. I cannot, on this record, determine that the agency made any error. Furthermore, the petitioner would need to provide some significant proof, such as testimony of the employer or legitimate pay stubs in order to overcome the reliability of the EVF and the state wage record which are both consistent.

Petitioner may provide most recent wage verification to the agency to determined benefiots going forward. But, I find no error in the agency's action in reliance upon the information that they had available to them.

CONCLUSIONS OF LAW

The agency did not err in termination FS based on the income verified on the EVF and the state wage record, as well as the unemployment compensation.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

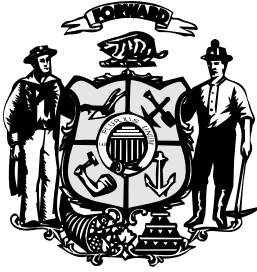
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of July, 2015

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 23, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability